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HUMAN RIGHTS COMMITTEE
Fifty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Togo

1. The Committee considered the second periodic report of Togo (CCPR/C/63/Add.2) at its 1325th to 1327th meetings, held on 7 and 8 July 1994 and adopted[1] the following comments:

A. Introduction

2. The Committee thanks Togo for its report (CCPR/C/63/Add.2) and core document (HRI/CORE/1/Add.38) and welcomes the Government willingness to pursue the dialogue with the Committee. However, it notes with regret that the report, which contained scant information about constitutional and legal measures giving effect to the Covenant, was not drawn up in accordance with the Committee's guidelines regarding the form and contents of periodic reports (CCPR/C/20/Rev.1); in particular, it was characterized by the lack of information on the practice concerning human rights as well as on the factors and difficulties affecting the implementation of the provisions of the Covenant. The Committee nevertheless thanks the delegation of Togo for endeavouring to reply to some of the questions raised and thus, to a certain extent, make up for the report's shortcomings.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that Togo is only now emerging from a long and devastating period of internal disturbances during which grave human rights violations have occurred and that it is still

[1] At its 1353rd meeting (fifty-first session), held on 27 July 1994

in the process of recovery and transition to democracy. The lack of awareness of individuals of their rights under the Covenant and the Optional Protocol impedes the enjoyment thereof and further contributes to the failure to provide remedies for violations of those rights. The remnants of certain traditions and customs also constitutes an obstacle to the effective implementation of the Covenant, particularly with regard to equality between men and women.

C. Positive aspects

4. The Committee welcomes the adoption of a new Constitution and related legislation which incorporate a number of provisions of the Covenant and purport to institute a legal environment favourable to the promotion and protection of human rights as well as the enactment of the new Electoral Code. It also takes note of the establishment of the Ministry of Human Rights which could play an important role in coordinating the Government's human rights policy.

D. Principal subjects of concern

5. The Committee notes with concern the internal disturbances which occurred in Togo during the period under review and which resulted in serious and systematic violations of the rights guaranteed by the Covenant, particularly its articles 4, 6, 7, 9, 10 and 14. It is particularly concerned with the fact that despite initiation of the democratic process, the rule of law has not yet been re-established in Togo and violations of human rights continue to occur. Consequently, a significant gap persists between constitutional and legal norms and their application in practice. The Committee also notes with concern in that context the manifold obstacles faced by the National Human Rights Commission which, unfortunately, is no longer operative and which is unable to contribute to the promotion of respect for human rights.

6. The Committee deplores the large number of cases of summary and arbitrary executions, enforced or involuntary disappearances, torture and arbitrary or unlawful detention committed by members of the army, security or other forces during the period under review. It is deeply concerned that those violations were not followed by any inquiries or investigations, that the perpetrators of such acts were neither brought to justice nor punished, and that the victims were not compensated. It notes that failure to exclude violators of human rights from service in the military or the security forces seriously undermine the transition to democracy.

7. The Committee is disturbed by the composition of the army, whose members are almost exclusively recruited from only one of the ethnic groups in Togo, depriving other groups of the opportunity for equitable participation. Such composition, whatever its historical background, together with the apparent lack of full and effective control by civilian authorities over the military and security forces is a particular cause of anxiety.

8. The Committee regrets that the State party has not yet embarked on all the necessary reforms to cope with the factors and difficulties impeding equality of men and women in order to fully implement article 3 of the Covenant. The reported cases of traffic of women, the effect of certain customs and traditions, as well as the lack of effective Government measures aiming at promoting equality of the sexes constitute matters of grave concern.

9. The Committee regrets the fact that derogations from some of the rights provided for in the Covenant through proclamation of curfews during the transitional period have not been notified to the Secretary-General in accordance with article 4 of the Covenant.

10. The Committee is concerned with the excessive number of offences punishable by the death penalty in the Togolese legislation which contravenes the provisions of article 6 of the Covenant.

11. The Committee notes that freedom of expression is not yet fully guaranteed in Togo owing to censorship and control exercised by the authorities over the press, radio and television.

12. The Committee notes with concern the restrictive conditions in which the rights provided for in articles 21 and 22 of the Covenant are to be exercised, and deplores the severe repression of peaceful demonstrations during the period under review involving loss of life which has not been fully investigated.

13. The Committee has serious doubts and concerns about the existing electoral system as well as the conditions under which the presidential and legislative elections have recently taken place, which preclude the full guarantee of free choice by all voters and the participation of all citizens in the conduct of public affairs, as provided for in article 25 of the Covenant.

14. A number of additional concerns remain, including the failure to ensure full and effective application of the Covenant in matters pertaining to the enjoyment of the right to a fair trial and the rights of persons deprived of their liberty.

E. Suggestions and recommendations

15. The Committee urges the Government to proceed with national reconciliation and to restore the confidence of all ethnic groups.

16. The Committee recommends that the State party take appropriate measures to translate and disseminate the Covenant, so that all people in Togo become aware of their rights guaranteed under the Covenant.

17. The Committee urges that the Government take all necessary measures to prevent summary or arbitrary executions, enforced or involuntary disappearances, torture and ill-treatment and illegal or arbitrary detention; that all such cases be systematically

investigated in order to bring those suspected of having committed such acts before the courts; and that those found guilty be punished and that the victims be compensated.

18. The Committee deems it necessary that specific measures be taken to ensure that human rights are respected by the military and security forces. Vigorous action should be taken to ensure that persons closely associated with human rights abuses do not re-enter the police, army or security forces. Urgent steps should be undertaken to ensure that the composition of the army equitably represents various ethnic groups of the Togolese population, including currently under-represented minority groups and that the army remains subject to the control of the elected civil government.

19. The Committee exhorts the Government to take appropriate action in order to ensure the effective application of article 3 of the Covenant, in particular by adopting administrative and educational measures designed to break away with customs and traditional practices detrimental to the well-being and status of women in the Togolese society.

20. The Committee urges the authorities of Togo to revise the Criminal Code with a view to diminishing the number of offences carrying the death penalty, in conformity with article 6 of the Covenant.

21. The Committee emphasizes that measures should be taken to ensure the implementation in prisons and detention centres of all provisions of article 10 of the Covenant together with the United Nations Standard Minimum Rules for the Treatment of Prisoners. They should be more widely disseminated and observed, particularly among the personnel of armed forces, the security and police officers involved in arrest and detention matters, as well as members of the judiciary.

22. The Committee recommends that necessary measures be taken by the Government to ensure the independence and the proper functioning of the judiciary and to provide proper and adequate staffing of courts in accordance with the provisions or article 14 of the Covenant.

23. Measures should be taken to allow for a proper resuming of the activities of the National Human Rights Commission under its statutes, including the guarantee of safety of its members as well as proper funding.

24. The Committee recommends that the censorship and control exercised by the authorities over the press, radio and television should be brought in line with article 19 of the Covenant.

25. Measures should be taken to ensure that elections be organized in full conformity with the requirements of article 25 of the Covenant.

26. The Committee recommends that the Government of Togo avail itself of the advisory and technical assistance services of the United Nations Centre for Human Rights in order to overcome some technical difficulties in implementing the Covenant, including the preparation of the third periodic report in accordance with the Committee's guidelines.